HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

Single Bench: **Hon'ble Shri S.R. Nayak, CJ**

Writ Petition No. 5926 OF 2005

PETITIONER Prathamik Sahkari Vipanan Sanstha Maryadit, Rajpur through the Manager, Prathamik Sahakari Vipanan Sanstha Maryadit, Rajpur, P.S. & Tahsil Rajpur, Distt. - Surguja (C.G.)

Versus

RESPONDENTS

1. State of Chhattisgarh Through : Secretary, Food and Civil Supplies and Consumer Protection Department, D.K.S. Bhawan, Raipur Distt. - Raipur (C.G.)
2. Collector (Food) Ambikapur, Distt. Sarguja (C.G.)
3. District Food Officer, Sarguja (C.G.)

Present:

Mr. Manoj Mishra & Mr. Bhupendra Singh,learned counsel for the petitioner.

ORAL ORDER

(Passed on 2nd of December 2005)

The action of the Collector (Food) Ambikapur, district Surguja, second respondent herein, in issuing the order modifying his earlier order whereby and whereunder he had authorized the petitioner herein to supply kerosene oil to 49 fair price shops of Rajpur Block. This action is challenged mainly on two grounds. The first ground is that the order was issued in violation of principles of natural justice inasmuch as the second respondent did not issue notice to the petitioner and did not

offer any opportunity of being heard. The second ground urged is that the action is tainted by factual mala fide and that the impugned action is taken by the second respondent in order to facilitate other societies.

(2) Having regard to these above two contentions, I have carefully perused the averments made in the writ petition. Let me first dispose of the second contention first. It is well settled that in order to bring home factual mala fide against an authority , the petitioner who alleges maia fide is required to lay factual matrix in a convincing manner. When the Court pointedly asked the learned counsel to draw the attention of the Court to that part of the writ petition where factual mala fide is laid, the counsel would take me through para 5.5 of the writ petition which reads follows:

> "5.5 That, after receiving the application dated 12.9.2005 filed by the petitioner, the respondent No.2 and 3, without giving any notice and without giving any opportunity of hearing to the petitioner, the respondent No.3 has modified the order dated 19.5.2005 with malafide intention and reduced the quantity of fair price shops where the petitioner was authorized to supply the kerosene oil, the said order has been passed by the respondent No.2 to facilitate other society. The copy of the said impugned order is filed herewith as Annexure-P/5."

Should I say that there is absolutely no averments in the above para with regard to the mala fide attributed to the second respondent? What is stated is a conclusion or subjective satisfaction of the writ petitioner and not factual matrix on the basis of which the Court could attribute mala fide to the second respondent. Therefore, the argument built upon the alleged mala fide is totally misconceived and not tenable.

(3) This takes me to the first contention advanced on behalf of the petitioner. It is well settled by umpteen number of pronouncements of the Apex Court and High Courts that in the domain of distribution of essential commodities to the card-holders, it is not only the power but also the duty of the public authorities to issue authorizations to persons or societies to distribute the essential commodities keeping in mind the best public interest and convenience of the card-holders. It is true that the second respondent by his order had authorized the petitioner's society to supply kerosene to 49 fair price shops of Rajpur Block. By virtue of that order, it cannot be said that the petitioner's society had acquired any vested right to insist that it should have the authorization to distribute kerosene to 49 fair price shops of Rajpur Block for all the months or years to come. It is the power of the District Collector to modify or cancel his earliest order, which power cannot be denied to him. It is not the right of a person like the petitioner to dictate the terms to the public authorities at the peril of public interest. Therefore, no exception could be taken to the impugned action taken by the District Collector. Furthermore, the argument that the action is vitiated on account of non-issuance of the notice before passing the modified order is untenable. It is true that the affected should be appraised is a constitutional creed flowing from Article 14 of the Constitution of India and that principle is insisted only where by an action of a public authority, any civil right of a person is violated. As pointed out (supra), by virtue of the order passed by the District Collector authorizing the petitioner to distribute supply of kerosene to 49 fair price shops of Rajpur Block, the petitioner did not acquire any enforceable legal right against the State Authorities and therefore, there was no need for the District Collector to issue authorization in favour of some other societies to

supply kerosene. The writ petition is devoid of merit and it is accordingly dismissed. There is no order as to costs.

Sd/-
Chief Justice

Brojesh